

1 WILLIAM R. TAMAYO -- #084965 (CA)
2 DAVID F. OFFEN-BROWN -- #063321 (CA)
3 EVANGELINA FIERRO HERNANDEZ -- #168879 (CA)
4 EQUAL EMPLOYMENT OPPORTUNITY
5 COMMISSION
6 San Francisco District Office
7 350 The Embarcadero, Suite 500
8 San Francisco, California 94105-1260
9 Telephone: (415) 625-5622
10 Facsimile: (415) 625-5657
11 *Attorneys for Plaintiff Equal Employment Opportunity*
12 *Commission*

13
14 UNITED STATES DISTRICT COURT
15
16 NORTHERN DISTRICT OF CALIFORNIA
17
18 SAN JOSE DIVISION
19

20 EQUAL EMPLOYMENT OPPORTUNITY
21 COMMISSION,

22 Plaintiff,

23 v.

24 VARKINS, INC d/b/a HOLIDAY INN
25 EXPRESS MTN. VIEW- PALO ALTO, a
26 Corporation,

27 Defendant.
28

Civil Action No. CV 10-4254-HRL

**[PROPOSED]
CONSENT DECREE**

29 I. INTRODUCTION

30 Plaintiff United States Equal Employment Opportunity Commission ("Commission") filed
31 this suit on behalf of Charging Party Beatriz Garcia, alleging that her employer Defendant
32 VARKINS, INC d/b/a HOLIDAY INN, EXPRESS, MTN. VIEW- PALO ALTO ("Defendant")
33 subjected Ms. Garcia to sexual harassment and discharged her in retaliation for her opposition to
34 the harassment, which acts violated Title VII of the Civil Rights Act of 1964, as amended ("Title

VII”) and Title I of the Civil Rights Act of 1991. The Commission and Defendant now seek to resolve this action without the expenditure of additional resources and expenses in contested litigation. They enter into this Consent Decree to further the objectives of equal employment opportunity as set forth in Title VII.

The Court has reviewed this Consent Decree in light of the pleadings, the record herein, the applicable law, and now approves this Consent Decree.

THEREFORE IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

II. NON-ADMISSION OF LIABILITY

This Consent Decree is not an adjudication or finding on the merits of this case and shall not be construed as an admission of a violation of Title VII by Defendant.

III. GENERAL PROVISIONS

1. This Court has jurisdiction over the subject matter and the parties to this action. This Court retains jurisdiction over this Consent Decree during its term.

2. This Consent Decree constitutes a full and final resolution of the Commission’s complaint in this action and all claims that were made or could have been made by the Commission on behalf of Ms. Garcia based upon her charge of discrimination against Defendant. This Decree does not, however, resolve any future charges or charges that may be pending with the EEOC.

3. This Consent Decree shall become effective upon its entry by the Court.

4. This Consent Decree is final and binding upon the parties to it and their successors and assigns.

5. Each party shall bear its own costs and attorneys fees in this action.

IV. GENERAL INJUNCTIVE RELIEF

6. Defendant and its current officers, agents, employees and all persons in active concert or participation with them shall comply with all requirements of Title VII with respect to providing a workplace free of sex harassment and retaliation.

7. Defendant and its current officers, agents, employees and all persons in active concert or participation with them shall not engage in, implement, or permit any action, policy, or

1 practice with the purpose of retaliating against any current or former employee of Defendant
 2 because he or she has in the past, or during the term of this Decree (a) opposed any practice of
 3 harassment or other discriminatory acts made unlawful under Title VII; (b) filed a charge of
 4 discrimination alleging any such practice; (c) testified or participated in any manner in any
 5 investigation into claims of discrimination or retaliation (including, without limitation, any
 6 internal investigation undertaken by Defendant), proceeding or hearing in connection with this
 7 lawsuit; (d) was identified as a possible witness in this lawsuit or supported Ms. Garcia's claims;
 8 (e) asserted any rights under this Decree; or (f) sought and/or received any monetary or non-
 9 monetary relief in accordance with this Decree.

10 V. SPECIAL INJUNCTIVE RELIEF

11 8. Within sixty (60) days of the entry of this Consent Decree, Defendant shall
 12 provide an two-hour anti-retaliation and anti-harassment training to all management and Human
 13 Resources employees still employed by Defendant that were involved in Ms. Garcia's case. Said
 14 training will include, *inter alia*, what a manager or supervisor should do when an employee
 15 complains of sexual harassment.

16 9. Within thirty (30) days after completing the training designated in paragraph 8,
 17 Defendant shall mail to counsel for the Commission a report containing the date of the training, a
 18 list of all attendees including their job titles, copies of all materials distributed at the training.

19 VI. MONETARY RELIEF

20 10. On May 1, 2011, Defendant shall pay the sum of \$2,000.00 to Beatriz Garcia. On
 21 June 1, 2011, Defendant shall pay the additional sum of \$2,000 to Beatriz Garcia. The total sum
 22 of \$4,000 is in complete satisfaction of the Commission's claims against Defendant as set forth in
 23 its Complaint. This sum will be paid by check directly to Ms. Garcia, and will be sent to her via
 24 certified mail, at the address to be provided to Defendant by the Commission. A copy of said
 25 check and its transmittal letter will be sent to the Commission's counsel at the San Francisco
 26 District Office.

27 11. Defendant shall cause to be issued an IRS Form 1099-Misc. to Beatriz Garcia for
 28 the monetary relief paid.

VII. EXPIRATION OF CONSENT DECREE

12. This Consent Decree will expire two (2) years after its entry, provided that Defendant has substantially complied with the terms of this Consent Decree. Defendant will be deemed to have complied substantially if the Court has not made any findings or orders during the term of the Consent Decree that Defendant has failed to comply with any of the terms of this Decree.

On behalf of Plaintiff Commission

On behalf of Defendant

Date: March 21, 2011

Date: March 21, 2011

U. S. EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION

/s/
WILLIAM R. TAMAYO

/s/ *Leinita Andley*

Defendant in Pro Per

/s/
DAVID F. OFFEN-BROWN

/s/
EVANGELINA HERNANDEZ

Attorneys for Plaintiff
EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION

San Francisco District Office
350 The Embarcadero, Suite 500
San Francisco, CA 94105-1260
Telephone: (415) 625-5622
Facsimile: (415) 625-5657
Evangelina.Hernandez@eeoc.gov

ORDER

It is so ordered.

Dated:

HON. HOWARD R. LLOYD
United States Magistrate Judge